IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO : 9785 of 2004

Between:
1 M/s Tirumala Seung Han Textiles , having its office at 4-1-969/1-2 , 3rd Floor, B.Shankarlal Building ,
Opp.Santosh Theatre, Abids, Hyderabad rep. byits Lalith kumar
2 Mr. Lalith Kumar Guptha S/o B.Shankarlal
Plot No.1217/A, Road No.36, Jubilee Hills , Hyd

..... PETITIONERS

AND

1 M/s Indian overseas Bank , M.G.road, Branch Secunderabad, Rep. by its Branch Manager
2 Debt Recovery Appellate Tribunal at Chennai Situated at 55 Ethiraj Salai Indian Bank Regional Office, Building , Chennai -8

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass order, direction or writ, more so in the nature of writ of Certiorari Calling for the records relating to the issue of the impugned orders dt. 25/05/2004 in M.A.No.67/2004 passed by the

second respondent and quash the same as illegal, void and violative of principles of natural justice, not maintainable by virture of the bar on such proceedings imposed by section 22 of the sick industrial companies act and violative of Article 14 of the Constitution of India and to pass such other order or orders.

Counsel for the Petitioner: MR.R.RAGHUNANDAN

Counsel for the Respondent No.1: MR.K.SRINIVASA MURTHY

The Court Made the Following :

ORAL ORDER: (per The Honourable Sri Devinder Gupta, the Chief Justice)

In the proceedings taken out by the Indian Overseas Bank, M.G.Road Branch, represented by its Assistant General Manager, Secunderabad against the petitioner-Company before the Debts Recovery Tribunal, Hyderabad, an order was passed appointing Advocate-Commissioner initially, and, later on, the Managing Director of the petitiner-Company was appointed by the Commissiosner as his agent to hold the Unit on behalf of the Receiver. Aggrieved by the said order, the Bank filed an appeal before the Debt Recovery Appellate Tribunal, at Chennai, making a grievance that Receiver's agent is the Managing Director of the petitioner-Company and is acting detrimental to the interests of the Company and the Agent has disposed of goods worth Rs.10.00 lakhs. It was also pointed out that the other Directors are his wife and children and his sons are also making gift of the properties to their wives and everything was done detrimental to the interests of the company, and it is very difficult to realize the amount, if all the goods are disposed of.

On behalf of the petitioner-Company before the Appellate Tribunal, it was not disputed or denied that Managing Director had

disposed of the goods. The lone objection was as regards the other person to be appointed as agent to Receiver.

Turning down the submission made on behalf of the Company, the Appeal of the Bank was allowed, and, the Debts Recovery Tribunal was directed to appoint any other person fit enough from the company who is really interested to safeguard the interests of the company and also interests of the Bank as agent of the Receiver. This order is now under challenge in the Writ Petition.

We have heard the learned counsel for the petitioners.

There is nothing wrong in the order passed by the Appellate Tribunal, as the same was passed in the facts and circumstances of the case. As such, no interference is warranted in exercise of our jurisdiction under Article 226 of the Constitution of India.

Learned counsel for the petitioners also submitted that now proceedings have been taken up before the Board for Industrial and Financial Reconstrucltion, and, since reference has been made to B.I.F.R., recovery proceedings deserve to be stayed. Such a prayer has to be made by the petitioners before the Debts Recovery Tribunal before whom proceedings are pending.

Therefore, with leave and liberty granted to the petitioners, the Writ Petition is dismissed. No costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 M/s Indian overseas Bank , M.G.road, Branch Secunderabad, Rep. by its Branch Manager
2 Debt Recovery Appellate Tribunal at Chennai Situated at 55 Ethiraj Salai Indian Bank Regional Office, Building , Chennai -8
3. Two CD Copies.